

UNITED STATES DISTRICT COURT

for the
WESTERN DISTRICT OF OKLAHOMA

In the Matter of the Search of)
 (Briefly describe the property to be search)
 Or identify the person by name and address)
 Android Cellular Telephone, Model ZTE N9130,)
 Serial Number 327B50366E3C; and)
 Android Cellular Telephone, Model ZTE N9136,)
 Serial Number 325774530527)

Case No: M-19- 85 -STE

FILED

FEB 15 2019

APPLICATION FOR SEARCH WARRANT

CARMELITA REEDER SHINN, CLERK
 U.S. DIST. COURT, WESTERN DIST. OKLA.
 BY Bm DEPUTY

I, a federal law enforcement officer or attorney for the government, request a search warrant and state under penalty of perjury that I have reason to believe that on the following property (*identify the person or describe property to be searched and give its location*):

An Android cellular telephone, Model ZTE N9130, bearing serial number 327B50366E3C; and an Android cellular telephone, Model ZTE 9136, bearing serial number 325774530527, currently in the custody of the Bureau of Indian Affairs, U.S. Department of the Interior, 123 White Eagle Drive, White Eagle, Oklahoma 74601. See also Attachment A.

Located in the Western District of Oklahoma, there is now concealed (*identify the person or describe the property to be seized*):

See Attachment B.

The basis for the search under Fed. R. Crim.P.41(c) is (*check one or more*):

- ☒ evidence of the crime;
☐ contraband, fruits of crime, or other items illegally possessed;
☒ property designed for use, intended for use, or used in committing a crime;
☐ a person to be arrested or a person who is unlawfully restrained.

The search is related to a violation of:

Code Section

Offense Description

18 U.S.C. § 1112; and
 18 U.S.C. § 1153

Voluntary manslaughter in Indian Country

18 U.S.C. § 113(a)(3); and
 18 U.S.C. § 1153

Assault with a dangerous weapon in Indian Country; and

18 U.S.C. § 113(a)(6); and
 18 U.S.C. § 1153

Assault resulting in serious bodily injury in Indian Country

The application is based on these facts:

See Affidavit of Special Agent Steven Kammerzell with the Bureau of Indian Affairs, U.S. Department of the Interior, which is incorporated by reference herein.

☐ Continued on the attached sheet(s).
☐ Delayed notice of [No. of Days] days (*give exact ending date if more than 30 days*) is requested under 18 U.S.C. § 3103a, the basis of which is set forth on the attached sheet(s).


Applicant's signature

STEVEN KAMMERZELL
Special Agent
Bureau of Indian Affairs
U.S. Department of the Interior

Sworn to before me and signed in my presence.

Date: Feb. 15, 2019


Judge's signature

City and State: Oklahoma City, Oklahoma

SHON T. ERWIN, U.S. Magistrate Judge
Printed name and title

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

**IN THE MATTER OF THE SEARCH
OF THE MODEL: ZTE N9130
CELLULAR TELEPHONE SN:
327B50366E3C; AND MODEL ZTE
N9136 CELLULAR TELEPHONE SN:
325774530527**

Case No. M-19- -STE

Filed Under Seal

ATTACHMENT A

**AFFIDAVIT IN SUPPORT OF
AN APPLICATION FOR A SEARCH WARRANT**

I, SA Steven Kammerzell, being first duly sworn, hereby depose and state as follows:

1. I am a Special Agent with the Bureau of Indian Affairs (BIA) and I have been a Special Agent with the BIA Office of Justice Services (OJS) since September 2010.
2. As a Special Agent with the BIA, I have authority to investigate violations of federal law. I also have authority to seek and execute federal process, to include criminal complaints and search warrants. This affidavit is made in support of an application for a warrant to search and seize the item listed in Attachment A. The purpose of this application is to seize evidence of crimes arising in Indian country under the Major Crimes Act, 18 U.S.C. §1153, including violations of 18 U.S.C. §1112, Voluntary Manslaughter in Indian Country; 18 U.S.C. § 113 (a)(3),

Assault with a Dangerous Weapon in Indian Country, and 18 U.S.C. §113 (a)(6), Assault Resulting in Serious Bodily Injury in Indian Country.

3. The information in this affidavit is based on my personal knowledge and information provided to me by other law enforcement officers and individuals. The information in this affidavit is provided for the limited purpose of establishing probable cause for a search warrant. As this affidavit is being submitted for the limited purpose of securing a search warrant, I have not included every fact known to me concerning this investigation.

4. On September 15, 2018, I arrived at a trailer house located at 772 West Riverview Road, Ponca City, Oklahoma 74601 to respond to a stabbing that later resulted in the death of Brandon Warrior (Warrior). The residence is located on land in Kay County within the Western District of Oklahoma, which is allotted Indian land which was held in trust status on that date and is Indian Country as defined by 18. U.S.C. § 1151(c). The victim, Brandon Warrior, died as a result of his injuries from the assault and passed away while hospitalized on October 2, 2018.

5. While investigating, I met Wayne Crises-For-Ribs (Cries-For-Ribs) who lives in the trailer where the assault took place. Cries-For-Ribs told me that on September 15, 2018, he was visiting with his friend Garland Pappan (Pappan), who was also at the residence, when there was a knock on the door at approximately 5:00 P.M. Cries-for-Ribs answered the door and saw the defendant Sage GOMEZ (GOMEZ) and told him he was not welcome and he could not come inside. GOMEZ pushed Cries-For-Ribs aside and rushed past him towards Brandon Warrior, who

was asleep or attempting to sleep on the couch in the living room. Cries-For-Ribs witnessed GOMEZ have a long wooden “clublike” stick in his waistband. GOMEZ contends he was attempting to retrieve an electronic tablet he left there earlier. GOMEZ had previously been at the residence on the same day and had spoken with Warrior about buying the tablet or trading it for drugs. Apparently GOMEZ forgot it there earlier in the day when he left. After GOMEZ forced his way in, he and Warrior then engaged in a scuffle when GOMEZ tried to take a drink from Warrior’s bottle of vodka. Garland Pappan also witnessed GOMEZ enter the trailer house, try to take the bottle of vodka to drink and begin fighting with Warrior. Pappan said he saw GOMEZ pull out a knife during the fight with Warrior. Pappan took the clublike stick brought in by GOMEZ and hit him on the head with it to get him to stop fighting with Warrior. Pappan realized that GOMEZ had stabbed Warrior and attempted to assist Warrior who was bleeding profusely. GOMEZ ran away and left the residence, taking the knife with him, but he left the stick. Cries-For-Ribs called 9-1-1 for emergency medical personnel as he saw Warrior holding his side after he had been stabbed.

6. GOMEZ ran from the residence and evaded police until his apprehension on September 24, 2018. GOMEZ was arrested at his grandmother’s residence at 6060 Ranch Drive, Ponca City, Oklahoma 74601. He subsequently advised law enforcement of a location near a small pond where he had hidden the knife used in the assault, and it was retrieved. On his person during his arrest was a black ZTE N9130 cell phone, serial number 327B50366E3C, FCC ID: SRQ-

ZTEN9130; and MEID: 256691559302130457. GOMEZ stated he had been using the cell phone and that it was his brother's.

7. The cell phone was admitted as evidence into the Bureau of Indian Affairs evidence control room at 123 White Eagle Drive, White Eagle, Oklahoma 74601.

8. I interviewed Warrior's surviving daughter and oldest child, Brandee Sigwing (Sigwing), who stated GOMEZ had been messaging people regarding stabbing her father. Sigwing stated she was informed that multiple people had interaction with GOMEZ via texting and social media following the assault. Sigwing was able to provide a screenshot of an apparent Facebook message between her family member and GOMEZ accusing GOMEZ of assaulting Warrior. The conversation continued but Sigwing was unable to provide the remainder of the conversation. The conversation date was September 18, 2018, three days following the assault. Sigwing also provided your affiant the cellular telephone of her father Brandon Warrior, which was a black ZTE N9136 cell phone, with serial number 325774530527, FCC ID: SRQ-N9136; and MEID: 256691622502099088. She gave consent to look into that phone as a surviving child. Your affiant looked at it but did not submit it for sophisticated data retrieval utilizing specialized software or professional retrieval techniques. Your affiant wishes to submit it for such expert analysis at this time.

9. I interviewed GOMEZ who admitted to stabbing Warrior. GOMEZ stated he was at multiple locations with various people following the assault and

stabbing. To my knowledge GOMEZ does not own a vehicle and has a suspended license. As a result, it is highly probable that GOMEZ utilized his cell phone to communicate with friends and family for places to stay and for transportation. Your affiant knows from his training and experience that individuals are able to download various free social media applications on their cellular device to include but not limited to Facebook. Affiant knows through training and experience individuals generally involved in criminal activity commonly use cellular phones to communicate with their friends and family who may provide assistance, if asked.

10. As shown through Sigwing's interview, GOMEZ responded to messages regarding the recent assault and it is likely that there are additional conversations via texting and social media regarding the assault and facts surrounding it. Additionally it is probable that communications before the assault may have taken place between GOMEZ and Warrior which would be captured on Warriouer's cell phone.

11. GOMEZ was indicted on October 16, 2018, having violated 18 U.S.C. §1112 and §1153, Voluntary Manslaughter in Indian Country; 18 U.S.C. §113(a)(3) and §1153, Assault with a Dangerous Weapon in Indian Country; and 18 U.S.C. §113 (a)(6) §1153, Assault Resulting in Serious Bodily Injury in Indian Country. There is probable cause to believe that the items listed in Attachment A contain information related to these offenses. Affiant respectfully request the court issue a search warrant for these items more fully described for in Attachment A to obtain the information described in Attachment B.

12. Searches and seizures of evidence from cell phones commonly require agents to download or copy information from the cellular device and their components to be processed later by a qualified cellular device expert in a laboratory or other controlled environment. This is almost always true because of the following:

a. Electronic digital storage devices can store the equivalent of thousands of pages of information. Especially when the user wants to conceal criminal evidence, he or she often stores it in random order with deceptive file names. This requires searching authorities to examine all the stored data to determine whether it is included in the warrant. This sorting process can take days depending on the volume of data stored, and it would be generally impossible to accomplish this kind of data search on site; and

b. Searching electronic digital devices for criminal evidence is a highly technical process requiring expert skill and a properly controlled environment. The search of electronic digital device is an exacting scientific procedure which is designed to protect the integrity of the evidence and to recover even hidden, erased, compressed, password-protected, or encrypted files.

13. Accordingly, your affiant respectfully requests that this Court issue a search warrant of the cell phones described in Attachment A, authorizing the

seizure of the items described in Attachment B, which constitute evidence, fruits, and other items related to violations of the referenced federal offenses.

FURTHER, YOUR AFFIANT SAYETH NOT.

Respectfully submitted,


STEVEN KAMMERZELL
Special Agent
Bureau of Indian Affairs

Subscribed and sworn to before me on Feb. 15, 2019, 2019.


SHON T. ERWIN
United States Magistrate Judge

ATTACHMENT B

ITEMS TO BE SEARCHED

- One black ZTE cell phone bearing Model No. N9130; with serial number 327B50366E3C. FCC ID: SRQ-ZTEN9130; and MEID: 256691559302130457; and
- One black ZTE cell phone bearing Model No. N9136, with serial number 325774530527. FCC ID: SRQ-N9136; and MEID: 256691622502099088.

ITEMS TO BE SEIZED

1. Pictures, videos, telephone numbers, in-coming and out-going calls, call histories, voicemails, photographs, stored contact phone numbers, in-coming and out-going text messages, Facebook or Facebook messenger messages, social media messages or chats, as well as any form of correspondence and other contact information.
2. Items or files containing or displaying passwords, access codes, usernames or other identifiers necessary to examine or operate items, software or information seized.